

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)
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)

All Cases

NOTICE OF EXTENSION OF TIME FOR TENNESSEE CLINIC DEFENDANTS TO
RESPOND TO:
THE PLAINTIFFS' STEERING COMMITTEE'S MOTION TO COMPEL COMPLIANCE
WITH SUBPOENA OF MICHAEL O'NEAL
AND
MICHAEL O'NEAL'S MOTION FOR PROTECTIVE ORDER

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John Culclasure, MD; Debra Schamberg, RN, CNOR; Vaughan Allen, MD (collectively "STOPNC Defendants"), gives notice as follows:

1. Presently pending before the Court are (1) the PSC's Motion to Compel Compliance with Subpoena, directed to non-party Michael O'Neal [Doc. 2437] and (2) Michael O'Neal's Motion for Protective Order [Doc. 2469].

2. The time for responding to the Motion to Compel is December 8, 2015. The time for responding to the Motion for Protective Order is December 18, 2015.

3. Mr. O'Neal is STOPNC's pharmacy consultant. The competing motions address the same issue – whether communications and documents related to Mr. O'Neal's consulting for STOPNC are privileged.

4. Additionally, the STOPNC Defendants are in possession of the documents that are the subject of the subpoena *duces tecum* served upon Michael O'Neal and have likewise claimed privilege in both the MDL and state litigation for over two (2) years in response to the PSC's requests for production of these documents.

5. The STOPNC Defendants intend to file a response to the PSC's Motion to Compel and to Mr. O'Neal's Motion for Protective Order. In the interest of minimizing the already crowded electronic court file, the STOPNC Defendants will file one brief.

6. Out of an abundance of caution, because the deadline to file a response to one of the competing motions runs today, the STOPNC Defendants file this notice of ten-day extension for that deadline, to ensure that their filing is timely. They intend to file the brief by December 11, 2015.

7. This is the first request for extension on this motion.

8. Counsel for Mr. O'Neal has assented to the STOPNC Defendants filing their brief by December 11. As of the time of this filing, the PSC had not responded to the emails from today about the date. Should the PSC have any opposition, this notice is filed.¹

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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¹ Doc. 1524.

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***Attorneys for the Tennessee Clinic
Defendants***

* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 8th day of December, 2015.

/s/ Chris J. Tardio

Chris J. Tardio